

# HOLIDAY GUIDANCE ON PARTYING WITH CONTRACTORS AND SUPERVISORS

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Holiday time is approaching, and many DoD offices hold parties and receptions involving food, drink, and even gifts. Including contractor employees, who are not Federal personnel (even though they work side-by-side with us) in these activities adds some new considerations. This guidance addresses these issues.

## Gifts From Contractors:

1. The general rule is that Federal personnel may not accept gifts from contractors or contractor personnel.

- a. Exception #1: Federal personnel may accept gifts (other than cash) not exceeding \$20, as long as the total amount of gifts that the personnel accepts from that contractor does not exceed \$50 for the year.
- b. Exception #2: Federal personnel may accept gifts from a contractor employee that are based on a **bona fide personal relationship**. (Such personal gifts are actually paid for by the contractor employee.)
- c. Exception #3: Federal personnel may generally attend a contractor's open-house or reception, and accept any gift of refreshments if it is a **widely-attended gathering**, and the employee's supervisor determines that it is in the agency's interest that the employee attends.
- d. Exception #4: Federal personnel may accept invitations (even from contractors) that are open to the public, all Government employees, or all military personnel.
- e. Exception #5: Federal personnel may accept invitations offered to a group or class that is not related to Government employment. (For example, if the building owner where your office is located throws a reception for all of the tenants of the building.)

## **Gifts Between Federal Personnel:**

1. General Rule: Supervisors may not accept gifts from subordinates or Federal personnel who receive less pay.
  - a. Exception #1: During holidays, which occur on an occasional basis, supervisors may accept gifts (other than cash) of **\$10 or less** from a subordinate.
  - b. Exception #2: Supervisors may accept food and refreshments shared in the office.
  - c. Exception #3: If invited by a subordinate to a social event at the subordinate's residence, supervisors may accept such personal hospitality of the type and value customarily given on such an occasion.
  - d. Exception #4: If a subordinate is invited to a social event at the supervisor's residence, the subordinate may give the supervisor a hospitality gift of the type and value customarily given on such an occasion.

(Please note, there are no legal restrictions on gifts given to peers or subordinates, however, common sense should apply.)

## **Rules Applicable to Contractor Employees:**

1. Many contractors have rules of ethics or business practices that are similar to the Federal rules. Take these rules into consideration before offering contractor employees gifts or opportunities they may not be able to accept.

### **Examples:**

1. **Office Party (non-duty time):** Your office is having a holiday party during the non-duty lunch hour or after work and asks each person attending to pay \$5 to cover refreshments and to bring a pot luck dish or dessert. Contractor employees may attend, pay \$5, and bring food because these contributions are not considered to be gifts, but a fair share contribution to the refreshments. **Remember**, contributions must be voluntary, so soliciting must be done with care to ensure there is no pressure. Also, ensure this is non-duty time for the contractor employees as well.

2. **Office Party (duty time):** What about a party that cuts into duty hours? The Government usually may not reimburse a contractor for its employees' morale and welfare expenses. The contractor has to decide whether to let its employees attend and forego payment for their time, or insist that they continue to work. If contractor employees are allowed to attend, the contractor must also decide whether it would pay its employees for that time, even though it wouldn't be reimbursed by the Government. The contractor does not have to pay its employees

for that time. Consult the contracting officer and ethics counselor before inviting contractor employees to a function during their duty hours.

3. **Gift to Supervisor:** Your office wants to give the office supervisor a gift. However, you can't solicit other employees for contributions to a group gift. (Group gifts are permitted only for special, infrequent events such as retirements.) As for contractor employees, you can't ask them to contribute anything, as it is considered soliciting a gift from a prohibited source. Even if contractor employees volunteer to contribute cash, it may not be accepted because the \$20 exception does not apply to cash.

4. **Exchange of Gifts:** Your office, including the contractor employees, wants to exchange gifts at the party. If gifts are chosen at random or traded, there are no monetary limits (except common sense) because the purchaser of the gift does not know who will eventually receive it. Gift exchanges in which employees purchase gifts for other employees whose names they drew at random are more troublesome. Where contractor personnel are involved, a \$20 limit eliminates any concerns. Where an employee may buy a gift for a superior, the \$10 limit is prudent. Some organizations consider such a gift exchange to be exchanges of items of equivalent value, and that everyone participating is paying market value for the items, so no one is receiving a gift. As such, the suggested monetary limits above are not applicable.

5. **Private Parties (Federal Personnel):** One of your Government co-workers is having a party at his house and has invited office personnel, including the contractor employees. A gift of food and refreshments to a contractor employee does not violate Government ethics rules. The contractor employees may want to check with their contractor's rules before accepting since many contractors have similar ethics rules. If the contractor employee brings a hospitality gift, it may not exceed \$20. If such a gift is edible, even if it exceeds \$20, the host may accept it on behalf of all the guests and share it with them.

6. **Private Parties (Contractor Employee):** If a contractor employee is having a party and invites Government personnel, normally Government personnel must decline, since the food, drink, and entertainment is a gift from a prohibited source. Several exceptions may permit attendance, however. Under the \$20 rule, if the average cost per guest does not exceed \$20, Government personnel may accept. (However, if the cost per guest is \$40, the "I won't eat more than \$20 worth of food." defense will not work.) Also, Government personnel may accept if the invitation is based on a bona fide personal relationship with the contractor employee. Finally, if the party qualifies as a widely-attended gathering (involving a large number of persons representing a diversity of views) and the employee's supervisor determines that it is in the agency's interest for the employee to attend, the employee may enjoy the food, drink, and entertainment. Government personnel who desire to take a gift to show their appreciation for the hospitality should consult with the contractor employee to determine if he or she may accept such a gift in accordance with the contractor's rules of ethics.

7. **Private Parties (Contractor-sponsored):** If the contractor is sponsoring an employee's party or open-house, and you are invited by the contractor (or an employee of the contractor), you may not attend unless one of the exceptions in paragraph #6, above, apply.

Have a wonderful holiday season. Please remember that this guidance only highlights common questions, and does not cover every situation. If you are unsure, contact your ethics counselor.